



6351-01-P

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Management and Budget (“OMB”) for review and comment. The ICR describes the nature of the information collection and its expected costs and burdens.

**DATES:** Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (“OIRA”) in OMB within 30 days of publication of this notice by either of the methods specified below. Please identify the comments by “OMB Control Numbers 3038-0023 and 3038-0072; Adoption of Revised Registration Form 7-R.”

- By email addressed to: *OIRAsubmissions@omb.eop.gov*; or
- By mail addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street, NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (“Commission”) by any of the following methods. The copies should refer to “OMB Control Numbers 3038-0023 and 3038-0072.”

- By mail addressed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581;
- By Hand Delivery/Courier to the same address; or
- Through the Commission’s website at <http://comments.cftc.gov>. Please follow the instructions for submitting comments through the website.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.<sup>1</sup> The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative

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<sup>1</sup> 17 CFR 145.9.

Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

A copy of the supporting statements for the collections of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

**FOR FURTHER INFORMATION CONTACT:** Matthew Kulkin, Director, (202) 418-5213, [mkulkin@cftc.gov](mailto:mkulkin@cftc.gov); or Christopher W. Cummings, Special Counsel, (202) 418-5445, [ccummings@cftc.gov](mailto:ccummings@cftc.gov), Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581, and refer to OMB Control Numbers 3038-0023 and 3038-0072.

**SUPPLEMENTARY INFORMATION:**

*Titles:* Registration Under the Commodity Exchange Act (OMB control number 3038-0023); Registration of Swap Dealers and Major Swap Participants (OMB control number 3038-0072). This is a request for extension and revision of these currently approved information collections.

*Abstract:* In *Revised Registration Form 7-R*, 84 FR 8671 (Mar. 11, 2019), the Commission published a revised version of Commission Form 7-R. The Form 7-R is the application form that entities must use to register with the Commission as a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, swap dealer, major swap participant, or floor trader firm. Separately, in *Agency Information*

*Collection Activities: Notice of Intent to Extend and Revise Collections 3038-0023 and 3038-0072; Adoption of Revised Registration Form 7-R*, 84 FR 8696 (Mar. 11, 2019) (“60-Day Notice”), the Commission addressed the PRA implications of the revisions to

Form 7-R. As indicated above, Form 7-R is covered by two OMB control numbers.

OMB control number 3038-0023 applies to Form 7-R in connection with registering as a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, floor trader firm or leverage transaction merchant.<sup>2</sup> OMB control number 3038-0072 applies to Form 7-R in connection with for registration as a swap dealer or major swap participant.<sup>3</sup> The revisions to Form 7-R, when considered together in the aggregate, result in no net change to the existing information collection burden associated with Form 7-R.

*Revision of Commission Form 7-R.* The revised Form 7-R contains several changes that, when considered together in aggregate, result in no net change to the existing information collection burden associated with Form 7-R. That burden varies by registration category and is currently 0.5 hour for futures commission merchants, 0.4 hour for introducing brokers, 0.4 hour for commodity pool operators, 0.4 hour for commodity trading advisors, 0.5 hour for floor trader firms, 0.5 hour for retail foreign exchange dealers, 1 hour for swap dealers, and 1 hour for major swap participants. Discussion of the noteworthy changes follows.

In the section titled “Location of Business Records,” Form 7-R no longer separately requests that non-U.S. applicants identify the non-U.S. address where their business records are located. Instead, both U.S. and non-U.S. applicants are required to

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<sup>2</sup> OMB control number 3038-0023 also covers Commission Forms 8-R, 7-W and 8-T in connection with various registration activities involving floor brokers, floor traders, futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms or leverage transaction merchants, and their principals and associated persons, as applicable. Forms 8-R, 7-W and 8-T were not amended in connection with the revision of Form 7-R.

<sup>3</sup> OMB control number 3038-0072 also covers Commission Forms 8-R, 7-W and 8-T in connection with various registration activities involving swap dealers and major swap participants, and principals thereof. Forms 8-R, 7-W and 8-T were not amended in connection with the revision of Form 7-R.

comply only with the existing requirements of Form 7-R to identify the location of their business records, which remain unchanged, and, for non-U.S. applicants, to indicate that such records will be produced for inspection at NFA's offices, or at another physical location (not a post office box) within the U.S that the applicant identifies.

In the section titled "Holding Company Information," the revised Form 7-R requests additional information about any entity that is a principal (as defined in Form 7-R) of the applicant. Form 7-R previously required applicants to identify by name any entity that was a principal of the applicant. The revised Form 7-R requires, for each entity that is identified as a principal of the applicant, then the applicant also must provide the entity's Federal EIN and the location where the entity is incorporated, organized, or established. This additional information is intended to ensure accurate identification of the entity, given that firms sometimes can have the same or similar names.

In the section titled "Disciplinary Information – Regulatory Disclosures," a new question was added to existing Question E. The new question directs the applicant to disclose whether it has ever been found to have "failed to supervise another person's activities under any investment-related statute or regulation." The new question is intended to ensure complete disclosure of conduct that may result in a refusal or limitation on registration.

Items that pertain only to NFA membership have been removed from the form. In the past, Form 7-R functioned as a registration form for the Commission and NFA, and as an application for NFA membership. To the extent that questions ask for information that is necessary for NFA membership but is not necessary for registration, those

questions have been removed from the form and will appear in a separate application for NFA membership. Specifically, revised Form 7-R no longer contains: a series of questions that inquire whether the applicant will transact in retail off-exchange foreign currency, swap, futures, or options; a question that is directed to applicants that are registering in multiple capacities that asks them to select the capacity in which they intend to vote on NFA membership matters; a question that asks applicants that are applying to register as a futures commission merchant to indicate whether the applicant has “applied for membership at any United States commodity exchange;” a question that asks an applicant that is applying for registration as a swap dealer or major swap participant to indicate whether the applicant is currently regulated by other U.S. regulators and to identify those regulators; and lastly, contact information for the applicant’s Membership Contact, Accounting Contact, Assessment Fee Contact, Arbitration Contact, Compliance Contact, or Chief Compliance Officer Contact.

Additionally, NFA is simplifying the process by which it requests supplemental information and documentation regarding the applicant’s criminal, regulatory or financial disclosures. The prior version of Form 7-R requested that applicants provide a written explanation of the facts and circumstances regarding any such disclosures. Applicants were also separately requested to provide NFA with copies of pertinent documents associated with each disclosure. To consolidate and modernize this process, the revised Form 7-R allows applicants to complete electronically a separate “Disclosure Matter Page” for each matter, instance or event requiring disclosure and to simultaneously upload all pertinent documents associated with each disclosure. The Disclosure Matter Page provides applicants with an efficient and effective method of supplying the

supplemental information and documentation that NFA requests in the normal course whenever an applicant responds affirmatively to any of the questions regarding criminal, regulatory or financial disclosures.

Lastly, revised Form 7-R contains several changes that do not alter the information collection burdens associated with Form 7-R. The revised Form 7-R incorporates new functionality throughout the form, consisting of hyperlinks to the text of the applicable provisions of the Commodity Exchange Act, Commission Regulations, and NFA Rules, whenever those authorities are referenced in the form. Additionally, revised Form 7-R incorporates certain clarifying language where appropriate. For example, the term “futures” has been replaced with the term “derivatives” in several locations to more accurately reflect the full scope of the Commission’s jurisdiction. Similarly, the reference to a failure “to pay an award issued in a futures-related arbitration” was replaced with the phrase “failure to pay an award related to a CFTC-related product.” The revised Form 7-R contains other changes to the language, formatting and organization of Form 7-R, all of which – individually and collectively – do not alter the information collection burdens associated with Form 7-R. The only changes to Form 7-R that could affect the information collection burdens associated with the form are those discussed above.

*Comments.* In the 60-Day Notice, the Commission provided 60 days for public comment on the extension and revision of the currently approved information collections under OMB control numbers 3038-0023 and 3038-0072 including, among other things, its estimates regarding the modified information collection burdens associated with the amendments to Form 7-R. The Commission received one relevant comment letter that:

(1) contended that a new question that was added to Question E of Form 7-R directing the applicant to disclose whether it has ever been found to have “failed to supervise another person’s activities under any investment-related statute or regulation” is redundant because Question E already requires an applicant to disclose whether it has “violated any provision of any investment-related statute or regulation thereunder”; and (2) suggested broadening Question G of Form 7-R by deleting the portion of that question that only requires disclosure of self-regulatory organizations actions “that prevented or restricted the firm’s ability to engage in any business in the financial services industry.”<sup>4</sup> The letter did not address or offer alternatives to the Commission’s estimates of the burden associated with revised Form 7-R. The Commission has determined that no further changes to Form 7-R or the information collection burdens associated therewith are warranted in response to this comment because: (1) the new required disclosure item in Question E asks for different information than the existing item that was claimed to be redundant, and is intended to ensure complete disclosure of conduct that may result in a refusal or limitation on registration;<sup>5</sup> and (2) the Commission believes that the suggested broadening of Question G would require disclosure of matters that are outside the jurisdiction of the Commission.<sup>6</sup>

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<sup>4</sup> See Letter from James L. Simon dated May 6, 2019, available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62116&SearchText=>.

<sup>5</sup> See Adoption of Revised Registration Form 7-R, 84 FR 8671, 8672 (Mar. 11, 2019).

<sup>6</sup> If Question G were revised as suggested, it would require the applicant to disclose whether it has been the subject of any order issued by or a party to any agreement with a U.S. or non-U.S. regulatory authority (other than the CFTC), including but not limited to a licensing authority, or self-regulatory organization (other than NFA or a U.S. futures exchange).



*Burden Statement:* As explained above, the Commission believes that the revisions to Form 7-R will result in no net change to the information collection burdens associated with that Form under OMB control numbers 3038-0023 and 3038-0072.<sup>7</sup>

The Commission estimates the burden of this collection of information under OMB control number 3038-0023 to be:

*Respondents/Affected Entities:* Users of Form 7-R that are futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, and leverage transaction merchants.

*Estimated number of respondents:* 78,055.<sup>8</sup>

*Estimated total annual burden on respondents:* 7,735 hours.

*Frequency of collection:* Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

The Commission estimates the burden of this collection of information under OMB control number 3038-0072 to be:

*Respondents/Affected Entities:* Users of Form 7-R that are swap dealers and major swap participants. The following estimates are based on the average annual

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<sup>7</sup> The revisions to Form 7-R do not change the existing estimated number of respondents under OMB control numbers 3038-0023 and 3038-0072. This estimate includes the collection burdens associated with Forms 7-R, 7-W, 8-R and 8-T, based on the historical practice of the Commission of addressing the burden estimates in aggregate, rather than separately on a form-by-form basis, for all of the registration forms: Forms 7-R, 7-W, 8-R, and 8-W.

<sup>8</sup> As noted above and in the 60-day notice, the revisions to Form 7-R do not change the existing estimated number of respondents under OMB control numbers 3038-0023 and 3038-0072. However, regarding the estimated number of respondents for OMB control number 3038-0023, the estimate in the 60-Day Notice incorrectly stated that there were 78.055 respondents. The correct estimate is 78,055 respondents. There is no change in the estimated total annual burden on respondents for collection 3038-0023, which is 7,735 hours.

number of swap dealer and major swap participant Form 7-R filers for the past three years.

*Estimated number of respondents: 772.*

*Estimated total annual burden on respondents: 672 hours.*

*Frequency of collection: Periodically.*

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: June 14, 2019.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

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